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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,190	06/20/2003	Keith J. Brodie	M-15536-3C US	8790
32605	7590	01/19/2006	EXAMINER	
MACPHERSON KWOK CHEN & HEID LLP 1762 TECHNOLOGY DRIVE, SUITE 226 SAN JOSE, CA 95110			MANCHO, RONNIE M	
			ART UNIT	PAPER NUMBER
			3663	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,190

Applicant(s)

BRODIE, KEITH J.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 10-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-9 in the reply filed on 10/27/05 is acknowledged.
2. Claims 10-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected elected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/27/05.

### *Claim Objections*

3. Claim 1 is objected to because of the following informalities:

In claim 1, the applicant is advised to change "determine a pseudorange associated a received correlation snapshot" to -- determine a pseudorange associated *with* a received correlation snapshot-- for clarity.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, “normally connected” is indefinite. The meets and bounds of “normally” have not been set by the applicant.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-3, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Krasner  
(5781156)

Regarding claim 1, Krasner discloses a communications system (fig. 1A) for determining the position of an object (20, mobile remote unit), said system comprising:

an interrogator (10, base or reference station) remote from the object 20, the interrogator adapted to:

receive GPS signals from GPS satellites (see GPS antenna 12, fig. 1; col. 7, lines 57-60);

for one of the GPS satellites associated with the GPS signals, transmit pre-positioning data (i.e. positioning data e.g. Doppler shifts, pseudorange “col. 6, line 25”, etc is pre-established or computed first by the interrogator i.e. “base station 10” and sent to the object 20 before an accurate position of the object 20 is computed using the pre-

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computed sent data. See data link 16, fig. 1A) for the GPS satellite, including a pseudorandom noise (PRN) code number (see unique Gold code or C/A code for civilian applications, col. 2, lines 2-14, i.e. each satellite is given a number or unique Gold code for identification of that particular satellite; col. 11, lines 17-21; col. 5, lines 66 to col. 6, lines 1-2), a Doppler frequency offset (col. 11, lines 60-66) and a code phase offset (col. 11, lines 28-35; col. 5, lines 66 to col. 6, lines 1-2) and a tracking signal (see satellite identity, col. 6, lines 21-26; col. 11, lines 61-66) including reference time (epoch, col. 5, lines 66 to col. 6, lines 1-2) and frequency information (col. 11, lines 17-20; col. 5, lines 66 to col. 6, lines 1-10); and

determine a pseudorange (col. 11, lines 28-35) associated with a received correlation snapshot (a snap shot is the collection of data such as PRN or PN frames in a given period of time; col. 11, lines 28-35; col. 12, lines 10-12); and  
a transponder (i.e. all the circuit blocks disposed on mobile unit 20) positioned on the object (mobile unit 20), the transponder adapted to:

receive (i.e. at 26, 22) the pre-positioning data and the tracking signal (see data link 16, fig. 1A; col. 11, lines 61 thru col. 12);

collect RF samples of the GPS signals (col. 11, lines 61 thru col. 12);

correlate (col. 12, lines 61-67) the RF samples of the GPS signal against replicas of a GPS signal based on the PRN code number, the Doppler frequency offset, and the code phase offset in the pre-positioning data and the reference time and frequency information in the tracking signal to produce the correlation snapshot (col. 1, lines 66 thru col. 2, lines 1+; col. 12, lines 61+); and

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transmit (fig. 3, col. 12, lines 49 thru col. 13, lines 1+) the correlation snapshot to the interrogator (10, base or reference station).

Regarding claim 2, Krasner discloses the system of claim 1 wherein the transponder (all the circuit blocks disposed on mobile unit 20) comprises a two-bit (e.g. 1 or 0; col. 10, lines 37-40; fig. 2A) sampler for collecting the RF samples.

Regarding claim 3, Krasner discloses the system of claim 1 wherein the interrogator 10 is further adapted to transmit a wake-up signal (command to initialize, col. 11, lines 61-65; initialization data, col. 6, lines 16-30) prior to transmitting the pre-positioning data and the tracking signal, and the transponder (i.e. all the circuit blocks disposed on mobile unit 20) comprises:

processing circuitry (fig. 1A); and

a power subsystem adapted to maintain the processing circuitry in a power-off mode prior to receipt of the wake-up signal (col. 5, lines 39-51).

Regarding claim 8, Krasner discloses the system of claim 1 wherein the code replicas (col. 12, lines 7-28; see repetitive signal; col. 1, lines 65 thru col. 2, lines 1-25) are generated by the transponder (i.e. all the circuit blocks disposed on mobile unit 20) at regular offsets (repetition period of 1023 chips, col. 2, lines 6) of some fraction of a C/A code chip.

The statements of intended use or field of use, "adapted to", "receive", "associate", "determine", "collect", "correlate", "transmit", "maintain", "switched off", etc clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

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***Allowable Subject Matter***

8. Claims 4, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter:

In claim 4, the prior art does not <sup>disclose</sup> a wake-up signal comprising an unmodulated carrier transmitted at a higher power than the pre-positioning data and the tracking signal.

In claim 9, the prior art does not disclose “The system of claim 1 wherein the correlation snapshot comprises a set of fixed-point correlator sums and a range offset in chips.”

***Response to Arguments***

10. Applicant's arguments filed 10/27/05 have been fully considered but they are not all persuasive.

The applicant is arguing that the prior art does not disclose “determining a pseudorange associated a received correlation snap shot”. The examiner disagrees. The prior art discloses “determine a pseudorange (col. 11, lines 28-35) associated with a received correlation snapshot (a snap shot is the collection of data such as PRN or PN frames in a given period of time). See prior art; col. 11, lines 28-35; col. 12, lines 10-12. It is further noted that the applicant provided no definition of correlation snap shot.

It is further noted that the argued limitations are drawn to method limitations in an apparatus claim.



It is believed that the prior art anticipates the limitation. Even if assuming that the prior art did not expressly teach the limitations (which the examiner is not conceding), it is believed that the prior art apparatus is capable of performing the claimed limitations.

The rejections are believed to be proper and stand.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Communication***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho  
Examiner  
Art Unit 3663

1/10/06

  
JACK KEITH  
SUPERVISORY PATENT EXAMINER